

1 (the “bankruptcy court”) seeking relief with respect to real property in California. (*In re*
2 *Halloum*, Case No. 16-16815-BTB (Bankr. D. Nev. Dec. 29, 2016) (Ch. 11 Pet., ECF No. 1));
3 (*See Op. Br.* at 1–2).

4 Relevant to the instant appeal, the bankruptcy court granted Wells Fargo’s motion for
5 relief from the automatic stay, finding Appellant failed to oppose the motion and concluding
6 Wells Fargo successfully demonstrated good cause for relief. (*See Hr’g Tr.* 4:16–5:8, *In re*
7 *Halloum*, ECF No. 62). Appellant subsequently moved to substitute himself in place of his
8 counsel, which the bankruptcy court granted. (*See Order, In re Halloum*, ECF No. 75).

9 Appearing pro se, Appellant filed a motion with the bankruptcy court seeking
10 reconsideration of the order lifting the stay, contending that his prior counsel’s negligence was
11 to blame for the adverse ruling. (*See Mot. to Recons., In re Halloum*, ECF No. 104). Appellant
12 also filed his Motion to Extend Time, requesting permission to file a tardy disclosure statement,
13 plan of organization, and appraisal. (*See Mot., In re Halloum*, ECF No. 77). Following a
14 hearing, the bankruptcy court denied both motions.

15 With respect to the motion to reconsider, the bankruptcy court noted that Appellant’s
16 motion focused solely on his prior counsel’s lack of diligence. (*See Hr’g Tr.* 8:12–9:6, *In re*
17 *Halloum*, ECF No. 97). Because the motion failed to articulate any error in the court’s
18 determination that Wells Fargo was entitled to relief on the merits, the Court found
19 reconsideration unwarranted. (*Id.* 8:12–9:6). As to the Motion to Extend Time, the bankruptcy
20 court stated that Appellant was under the misapprehension that he missed a deadline to file a
21 disclosure statement, plan of reorganization, and appraisal. (*Id.* 7:12–8:5). Concluding that
22 nothing precluded Appellant from meeting the yet-to-be-expired deadline, the bankruptcy court
23 denied Appellant’s Motion, issuing a written order on August 15, 2018. (*Id.* 8:6–11).

24 The next day, Appellant filed a Notice of Appeal in which he elected to have this Court,
25 rather than the Ninth Circuit Bankruptcy Appellate Panel hear his appeal. (*See Notice of*

1 Appeal at 2, ECF No. 1). The Notice of Appeal identifies the bankruptcy court's order denying
2 Appellant's Motion to Extend Time as the subject of this appeal. (*Id.*).

3 Following this Court's order setting forth an appellate briefing schedule, (ECF No. 5),
4 Appellant moved this Court to transfer venue, (ECF No. 7), which the Court denied upon
5 finding it was procedurally improper and premised upon an inapplicable legal standard. (*See*
6 Order 2:19-3:7, ECF No. 15). Prior to this Court's denial, Appellant correspondingly moved
7 the bankruptcy court to transfer venue, which the court denied following a hearing. (*See In re*
8 *Halloum*, ECF Nos. 132, 142). Appellant appealed that ruling, which is currently pending
9 before Judge Gordon in Case No. 2:19-cv-00037.

10 Wells Fargo, for its part, filed the instant Motion for Sanctions, asserting that the
11 arguments Appellant puts forth are irrelevant and otherwise outside the scope of this appeal.
12 (Mot. for Sanctions, ECF No. 23). Consequently, Wells Fargo requests an order deeming this
13 appeal frivolous and sanctioning Appellant by awarding attorneys' fees to Wells Fargo. (*Id.*).

14 **II. STANDARD OF REVIEW**

15 The Court reviews *de novo* the bankruptcy court's conclusions of law, "including its
16 interpretation of the Bankruptcy Code." *In re Rains*, 428 F.3d 893, 900 (9th Cir. 2005). On
17 appeal, a district court "may affirm, modify, or reverse a bankruptcy judge's judgment, order,
18 or decree or remand with instructions for further proceedings." *E.g., Cesar v. Charter*
19 *Adjustments Corp.*, 519 B.R. 792, 795 (E.D. Cal. 2014).

20 **III. DISCUSSION**

21 Preliminarily, Appellant's Opening Brief is dedicated exclusively to the bankruptcy
22 court's order denying his motion to transfer venue, an issue presently on appeal before Judge
23 Gordon (the "Venue-Transfer Appeal"). Moreover, the brief bears the Venue-Transfer
24 Appeal's caption and is clearly a carbon copy of the same. (*See Op. Br.*, ECF No. 16); (*see also*
25 *Op. Br., In re Halloum*, Case No. 2:19-cv-00037-APG, ECF No. 10). It is well established that

1 this Court, sitting as an appellate tribunal, need not “consider matters on appeal that are not
2 specifically and distinctly raised and argued in appellant’s opening brief.” *Padgett v. Wright*,
3 587 F.3d 983, 985 n.2 (9th Cir. 2009); *Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999)
4 (“[O]n appeal, arguments not raised by a party in its opening brief are deemed waived.”).

5 The Court, however, finds that alternative grounds preclude this Court from treating this
6 appeal on the merits—this Court is without appellate jurisdiction.

7 **A. Jurisdiction**

8 “Jurisdiction over an appeal from an order of a bankruptcy court is governed by 28
9 U.S.C. § 158.” *In re Frontier Props., Inc.*, 979 F.2d 1358, 1362 (9th Cir. 1992). Section 158
10 vests district courts with appellate jurisdiction over three categories of bankruptcy court orders:
11 (1) “final judgments, orders, and decrees”; (2) “interlocutory orders and decrees issued under
12 section 1121(d) of title 11 increasing or reducing the time periods referred to in section 1121 of
13 such title”; and (3) other interlocutory orders and decrees “with leave of the court.” 28 U.S.C. §
14 158(a)(1)–(3).

15 Here, Appellant’s Motion to Extend Time² does not arise under any subsection of §
16 158(a). Section 158(a)(1) does not apply because denials of motions to extend time are not
17 final orders reviewable on appeal. *See Travers v. Dragul (In re Travers)*, 202 B.R. 624, 625
18 (9th Cir. BAP 1996) (stating that the appeal is interlocutory because “the order allowing an
19 extension of the filing deadline determined only an intervening matter of the Plaintiffs’ claims
20 against the Debtor”); *In re Plaza Family P’ship*, 95 B.R. 166, 170 (E.D. Cal. 1989) (“[A]n
21 order shortening time is not a final order and therefore not appealable”). Nor was the
22 underlying bankruptcy court order final in *any* sense. As the bankruptcy court explained,
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25 ² To the extent Appellant alludes to other bankruptcy orders in his Notice of Appeal, this Court is without jurisdiction to consider them. *See* Fed. R. Bankr. P. 8002(a)(1) (“[A] notice of appeal must be filed with the bankruptcy clerk within 14 days after entry of the judgment, order, or decree being appealed.”); *see also In re Slimick*, 928 F.2d 304, 306 (9th Cir. 1990) (“The untimely filing of a notice of appeal is jurisdictional.”).

1 Appellant's Motion to Extend Time was without merit because Appellant was under the
2 erroneous belief that he missed a deadline. (*See* Hr'g Tr. 8:9–11, 11:17–22, *In re Halloum*, ECF
3 No. 97) ("I deny your motion to file a tardy disclosure statement, plan, and appraisal because
4 they're not tardily filed. . . . You may proceed with the disclosure statement. . . . But there's no
5 deadline that you missed . . . so you certainly have the ability to file your plan."). Thus, the
6 underlying order, by its express language, had no impact on Appellant's ability to file a timely
7 reorganization plan.

8 Finally, the Motion to Extend Time also does not fall within §§ 158(a)(2) or (3). The
9 bankruptcy court's order neither increased nor reduced the time periods under 11 U.S.C. §
10 1121(d), and Appellant never filed a motion requesting leave to pursue this appeal.

11 In sum, the issue Appellant raises here is not an appealable order under any provision of
12 § 158. Therefore, because the Court is without jurisdiction, the present appeal must be
13 dismissed.³

14 **B. Motion to Reconsider**

15 Appellant's Motion to Reconsider concerns this Court's denial of his motion to transfer
16 venue. (*See* Mot. to Recons., ECF No. 20). Appellant, however, identifies no basis for
17 reconsideration and neglects to address this Court's reasoning in denying his motion. (*See id.*).
18 As such, reconsideration is unwarranted and Appellant's Motion is denied.

19 **C. Motion for Sanctions**

20 Wells Fargo moves for an order declaring the present appeal frivolous and awarding it
21 attorneys' fees for time spent defending against it. (*See generally* Mot. for Sanctions, ECF No.
22 23). Wells Fargo contends that Appellant has consistently and improperly treated this appeal as
23 a vehicle to attack an unrelated underlying bankruptcy order that is not before this Court. Wells
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25 ³ In light of this conclusion, the Court need not reach Wells Fargo's mootness argument. (*See* Wells Fargo's
Suppl. Br. at 2–3, ECF No. 41).

1 Fargo points out that: (a) Appellant’s Opening Brief fails to address the Motion to Extend
2 Time, the only issue properly on appeal; (b) the brief is a carbon copy of that filed in the
3 Venue-Transfer Appeal before Judge Gordon; (c) Appellant filed an “Answering Brief” in this
4 case, styled as Wells Fargo’s brief, which was copied and pasted from a brief in Venue-
5 Transfer Appeal; and (d) Appellant has failed to make any argument, in any of his voluminous
6 filings, in favor of reversing the bankruptcy order on appeal. (*Id.* 2–5). Given the purported
7 frivolity, Wells Fargo requests an award of attorneys’ fees in the amount of \$3,847.50. (*Id.* at
8 5).

9 ***1) Merits of this Appeal***

10 “Fed. R. Bankr. P. 8020, which mirrors the language of Fed. R. App. P. 38, . . . exists to
11 clarify that district courts and bankruptcy appellate panels have the authority to award damages
12 or costs for frivolous appeals.” *In re Marino*, 234 B.R. 767, 770 (B.A.P. 9th Cir. 1999). “An
13 appeal is frivolous if the result is obvious, or the arguments of error are wholly without merit.”
14 *DeWitt v. W. Pac. R. Co.*, 719 F.2d 1448, 1451 (9th Cir. 1983). An appellant’s failure to brief
15 or otherwise support the issue she raises on appeal may support a finding of frivolousness and
16 an award of sanctions. *See, e.g., In re Smith*, 335 F. App’x 667, 668 (9th Cir. 2009) (affirming
17 the bankruptcy appellate panel’s imposition of sanctions for the appellant’s “fail[ure] to address
18 the only bankruptcy court order from which she timely appealed.”); *Adriana Int’l Corp. v.*
19 *Thoeren*, 913 F.2d 1406, 1417 (9th Cir. 1990); *Operating Engineers Pension Tr. v. Cecil*
20 *Backhoe Serv., Inc.*, 795 F.2d 1501, 1508 (9th Cir. 1986). The court may, in its discretion,
21 impose sanctions for a frivolous appeal notwithstanding an appellant’s pro se status. *See*
22 *Maisano v. United States*, 908 F.2d 408, 411 (9th Cir. 1990).

23 The Court agrees with Wells Fargo that this appeal is frivolous. Appellant’s Opening
24 Brief does not put forth any argument, or even address, the bankruptcy order he is purportedly
25 appealing, the Motion to Extend Time. Nor does Appellant do so in any other filing before the

1 Court. The issue Appellant *does* discuss, venue transfer, rehashes arguments already ruled
2 upon by this Court and determined to be improper. (*See* Order 2:10–16, 3:1–7, ECF No. 15). In
3 light of these findings, the Court concludes this appeal is frivolous and Wells Fargo is entitled
4 to attorneys’ fees.

5 **2) Sanctions**

6 Rule 8020 provides that “just damages” may be awarded upon finding an appeal is
7 frivolous. *See* Fed. R. Bankr. P. 8020; *see also* Fed. R. App. P. 38. “Just damages” may
8 “include attorneys’ fees incurred in defending against the frivolous issues or frivolous portions
9 of an appeal.” *Blixseth v. Yellowstone Mountain Club, LLC*, 854 F.3d 626, 630 (9th Cir. 2017).

10 Wells Fargo supports its request for attorneys’ fees with a declaration from counsel,
11 attesting to the time spent defending this appeal and providing an itemized schedule of fees
12 incurred. (*See* Van Patten Decl., ECF No. 23). Counsel declares that he spent 17.1 hours on
13 this appeal and voluntarily reduced his hourly rate to \$225.00, amounting to \$3,847.50 in fees.
14 (*Id.*). Upon review, the Court is satisfied that \$3,847.50 represents an accurate accounting of
15 Wells Fargo’s time during these proceedings. The Court, accordingly, grants Wells Fargo’s
16 Motion and awards it the requested \$3,847.50 in attorneys’ fees.

17 **IV. CONCLUSION**

18 **IT IS HEREBY ORDERED** that the September 15, 2018 Order of the United States
19 Bankruptcy Court for the District of Nevada is **AFFIRMED**. This appeal is hereby
20 **DISMISSED**.

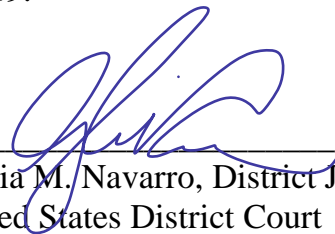
21 **IT IS FURTHER ORDERED** that Appellant’s Motion for Reconsideration, (ECF No.
22 20), is **DENIED**.

23 **IT IS FURTHER ORDERED** that Wells Fargo’s Motion for Sanctions, (ECF No. 23),
24 is **GRANTED**. Wells Fargo is hereby awarded \$3,847.50 in attorneys’ fees against Appellant
25 Yousif H. Halloum.

1 **IT IS FURTHER ORDERED** that Appellant's remaining motions, (ECF Nos. 42, 43,
2 44, 45, 47, 49–50), are **DENIED as moot**.

3 The Clerk of Court is instructed to enter judgment in accordance with this Order and
4 close this case.

5 **DATED** this 5 day of September, 2019.

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10 Gloria M. Navarro, District Judge
11 United States District Court
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